

ATTACHMENT A

Commonwealth Compliance Contentions and Actions to Achieve Full Compliance

#	Provision	Provision text	Actions to Achieve Compliance
1	III.C.2.a-f	<p>The Commonwealth shall create an Individual and Family Support Program (IFSP) for individuals with ID/DD whom the Commonwealth determines to be the most at risk of institutionalization.</p> <p>... In the State Fiscal Year 2018, a minimum of 1000 individuals will be supported.</p> <p>(II.D: Individual and family supports are defined as a comprehensive and coordinated set of strategies that are designed to ensure that families who are assisting family members with intellectual or developmental disabilities (“ID/DD”) or individuals with ID/DD who live independently have access to person-centered and family-centered resources, supports, services and other assistance.</p> <p>Individual and family supports are targeted to individuals not already receiving services under HCBS waivers, as defined in Section II.C above. The family supports provided under this Agreement shall not supplant or in any way limit the availability of services provided through the Elderly or Disabled with Consumer Direction (“EDCD”)</p>	<p>The Commonwealth has supported the number of individuals required by the Settlement Agreement each year through its Individual and Family Support Program (“IFSP”). The finding of noncompliance relates to the IFSP not meeting the definition in Section II.D of being a “comprehensive and coordinated set of strategies.” The Commonwealth has taken steps to address this deficiency. As noted by the Independent Reviewer in his December 2018 report, the Commonwealth has completed a strategic plan that outlines a path to compliance.</p> <p>The Commonwealth asserts that it will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. The Individual and Family Support Program State Plan for Increasing Support for Virginians with Developmental Disabilities (IFSP State Plan) developed by the IFSP State Council is implemented and includes all components that will lead to a comprehensive and coordinated set of strategies. 2. The IFSP State Plan includes criteria for determining applicants most at risk for institutionalization. 3. The IFSP State Plan includes a set of measurable program outcomes. An annual report is produced reviewing progress towards the outcomes. 4. Upon being placed on the waiver waitlist, individuals are informed of their eligibility for IFSP funding and are informed annually thereafter. 5. IFSP-funding availability announcements are provided to all individuals on the waiver waitlist. 6. Eligibility guidelines for IFSP programs and other supports and services such as case management for individuals on the waiver waitlist are published on the My Life, My Community website.

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		waiver, Early and Periodic Screening, Diagnosis and Treatment (“EPSDT”), or similar programs.)	7. Documentation continues to indicate that a minimum of 1,000 individuals and/or their families are supported through the IFSP.
2	III.C.5.b.i.	Assembling professionals and nonprofessionals who provide individualized supports, as well as the individual being served and other persons important to the individual being served, who, through their combined expertise and involvement, develop Individual Support Plans (“ISP”) that are individualized, person-centered, and meet the individual’s needs.	<p>The Commonwealth will achieve compliance with this provision and other provisions of the Settlement Agreement related to case management when:</p> <p>1. The Department of Behavioral Health and Developmental Services (“DBHDS”) performs a quality review of case management services through Community Services Board (“CSB”) case management supervisors/quality improvement specialists, who conduct a Case Management Quality Review that reviews the bulleted elements listed below. DBHDS pulls an annual statistically significant stratified statewide sample of individuals receiving DD waiver services that ensures record reviews of individuals at each CSB. Each quarter, the CSB case management supervisor and/or quality improvement specialist completes the number of Case Management Quality Reviews as determined by DBHDS by reviewing the records of individuals in the sample. The data captured by the Case Management Quality Reviews is provided to DBHDS quarterly through a secure software portal that enables analysis of the data in the aggregate. DBHDS analysis of the data submitted allows for review on a statewide and individual CSB level. The Case Management Quality Reviews include review of whether the following elements are met:</p> <ul style="list-style-type: none"> a. The CSB has offered each person the choice of case manager. b. Risk has been assessed and risk mitigation plans are in place. c. Whether the person’s needs for services and supports have changed and the Individualized Services Plan (“ISP”) has been modified as needed. d. The person’s ISP addresses all risks, identified needs and preferences. e. The ISP includes specific and measurable outcomes, including evidence that employment goals have been discussed. f. The ISP was developed with professionals and nonprofessionals who provide individualized supports, as well as the individual being served and other persons important to the individual being served. g. The ISP includes the necessary services and supports to achieve the outcomes such as medical, social, education, transportation, housing, nutritional, therapeutic, behavioral, psychiatric, nursing, personal care, respite, and other

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			<p>services necessary.</p> <p>h. Individuals have been offered choice of providers for each service.</p> <p>i. The ISP is implemented and is meeting the person's health and safety needs and integration preferences.</p> <p>j. The CSB has in place and the case manager has utilized where necessary a problem resolution process including, but not limited to, reconvening the planning team as necessary to meet individuals' needs.</p> <p>2. The Case Management Steering Committee analyzes the Case Management Quality Review data submitted to DBHDS that reports on CSB case management performance each quarter. 86% of the records reviewed across the state will be in compliance with a minimum of nine of the elements assessed in the review.</p> <p>3. Any individual CSB that has 2 or more records that do not meet 86% compliance with Case Management Quality Review for two consecutive quarters receives additional technical assistance provided by DBHDS. If, after receiving technical assistance, a CSB does not demonstrate improvement, the Case Management Steering Committee will make recommendations to the Commissioner for enforcement actions pursuant to the CSB Performance Contract.</p> <p>4. DBHDS, through the Case Management Steering Committee, provides the CSBs their case management performance data semi-annually at a minimum.</p>
3	III.C.5.b.ii	Assisting the individual to gain access to needed medical, social, education, transportation, housing, nutritional, therapeutic, behavioral, psychiatric, nursing, personal care, respite, and other services identified in the ISP.	The actions to achieve compliance listed in Section III.C.5.b.i will also achieve compliance with this provision of the Settlement Agreement.
4	III.C.5.b.iii	Monitoring the ISP to make timely additional referrals, service changes,	The actions to achieve compliance listed in Section III.C.5.b.i will also achieve compliance with this provision of the Settlement Agreement.

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		and amendments to the plans as needed.	
5	III.C.5.c	Case management shall be provided to all individuals receiving HCBS waiver services under this Agreement by case managers who are not directly providing such services to the individual or supervising the provision of such services. The Commonwealth shall include a provision in the Community Services Board (“CSB”) Performance Contract that requires CSB case managers to give individuals a choice of service providers from which the individual may receive approved waiver services and to present practicable options of service providers based on the preferences of the individual, including both CSB and non-CSB providers.	<p>The Commonwealth believes that it is compliant with this provision. Case management is provided by case managers who are not directly providing services to the individuals or supervising the provision of services. Virginia Informed Choice forms document that individuals have been offered a choice of case managers. The CSB Performance Contract requires CSBs to complete these forms. <i>See</i> Section 4.e.6 of the CSB Performance Contract found at http://www.dhhs.virginia.gov/assets/doc/BH/oss/19-pc-contract-june-8-2018.pdf.</p> <p>A provision was added to the CSB Performance Contract that requires CSB case managers to give individuals a choice of service providers from which the individual may receive approved waiver services and to present practicable options of service providers based on the preferences of the individual. <i>See</i> Section 4.e of the CSB Performance Contract found at http://www.dhhs.virginia.gov/assets/doc/BH/oss/19-pc-contract-june-8-2018.pdf. The <i>Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services</i> (“Licensing Regulations”) also address case manager choice. <i>See</i> 12 VAC 35-105-1255 found at https://law.lis.virginia.gov/admincode/title12/agency35/chapter105/section1255/.</p> <p>Despite the Commonwealth’s assertion of compliance, if measure is needed for this provision of the Settlement Agreement, the Commonwealth recommends the following:</p> <p>86% or more of case management records reviewed demonstrate via the Virginia Informed Choice forms that choice of case manager is being offered to individuals.</p>
6	III.C.5.d	The Commonwealth shall establish a mechanism to monitor compliance with [case management] performance standards.	The Commonwealth believes it is compliant with this provision. The newly amended Licensing Regulations align with the Agreement’s requirements for case management and provide the mechanism to monitor compliance with performance standards through the Office of Licensing’s inspection and

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			<p>enforcement authority. <i>See</i> 12 VAC 35-105-150, 170, 1245, and 1250 found at http://register.dls.virginia.gov/details.aspx?id=6997, and 12 VAC35-105-1240 found at https://law.lis.virginia.gov/admincode/title12/agency35/chapter105/section1240/.</p> <p>The DBHDS Office of Licensing reviews every provider service at least annually, including CSBs, and monitors CSBs' compliance with the case management standards.</p> <p>In addition to the mechanism established through the Licensing Regulations, the Commonwealth is implementing processes similar to those included in DOJ's indicators for this provision as a matter of best practice. The Commonwealth does not believe that these processes should be imposed as a requirement for this provision because these processes go beyond the requirements of this provision. Under these additional processes, the Case Management Steering Committee will also be monitoring compliance with case management performance standards. The Case Management Steering Committee will review and analyze the Case Management Quality Review data submitted to DBHDS and produce a semi-annual report to the DBHDS Quality Improvement Committee on the findings from the data review with recommendations for system improvement. The Case Management Steering Committee's report will include an analysis of findings and recommendations based on review of the information from case management monitoring/oversight processes including: data from the oversight of the DBHDS Office of Licensing, Department of Medical Assistance Services ("DMAS") Quality Management Reviews, CSB Case Management Supervisors Quarterly Reviews, DBHDS Quality Management Division quality improvement review processes including the Supervisory retrospective review, Quality Service Reviews, and CSB Performance Contract Indicator data. The Case Management Steering Committee will also make recommendations to the Commissioner for enforcement actions pursuant to the CSB Performance Contract based on negative findings.</p> <p>Members of the DBHDS Central Office Quality Improvement Division will conduct annual retrospective reviews to validate the findings of the CSB case</p>

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			management supervisory reviews and to provide technical assistance to the case managers and supervisors for any needed improvements. A random sub-sample of the original sample will be drawn each year for this retrospective review. The sample is stratified so that each CSB is included in the sample. The DBHDS Central Office Quality Improvement Division's reviewers will visit each CSB in person and review case management records for the individuals in the sub-sample. They will then complete an electronic form so that agreement between the CSB Case Management Quality Review and the DBHDS Quality Improvement Division record reviews can be measured quantitatively, in addition to providing feedback to the CSB case management supervisors to increase the reliability of future reviews. There is an ongoing inter-rater reliability process for staff of the DBHDS Quality Improvement Division conducting the retrospective reviews.
7	III.C.6.a.i-iii	<p>The Commonwealth shall develop a statewide crisis system for individuals with intellectual and developmental disabilities. The crisis system shall:</p> <ul style="list-style-type: none"> i. Provide timely and accessible support to individuals with intellectual and developmental disabilities who are experiencing crises, including crises due to behavioral or psychiatric issues, and to their families; ii. Provide services focused on crisis prevention and proactive planning to avoid potential crises; and iii. Provide in-home and community-based crisis services that are directed at resolving crises and 	<p>The Commonwealth has developed REACH, a statewide crisis system for individuals with intellectual and developmental disabilities that provides timely and accessible support, provides services focused on crisis prevention and proactive planning, and provides in-home and community-based crisis services that are directed at resolving crises and preventing the removal of the individual from his current placement when practicable. Information on REACH services can be found on the DBHDS website at: http://23.29.59.143/developmental-services/Crisis-services. REACH program standards are accessible at: http://23.29.59.143/assets/doc/DS/cs/reach-program-standards-7-1-18.pdf.</p> <p>According to the Independent Reviewer's December 2018 report, the Commonwealth will not be in compliance with this provision until it is in compliance with all provisions in Section III.C.6 of the Settlement Agreement. Thus, actions taken to comply with the provisions of Section III.C.6 for which the Commonwealth has not yet achieved full compliance should result in compliance with this provision.</p>

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		preventing the removal of the individual from his or her current placement whenever practicable.	
8	III.C.6.b.ii.A.	Mobile crisis team members adequately trained to address the crisis shall respond to individuals at their homes and in other community settings and offer timely assessment, services, support, and treatment to de-escalate crises without removing individuals from their current placement whenever possible.	<p>The Commonwealth believes it is compliant with this provision of the Settlement Agreement. Mobile crisis team members are adequately trained to address crises. Mobile crisis teams respond to individuals at their homes and in other community settings. In fact, mobile crisis team members will respond to individuals where they are located at the time they are called. Findings of non-compliance by the Independent Reviewer seem to be based on data that shows some assessments by mobile crisis team members are occurring at CSB offices and psychiatric hospitals. The Commonwealth has previously agreed to identify trends in crisis data and develop initiatives to decrease the number of assessments occurring at these locations. But this provision of the agreement does not require mobile crisis assessment be conducted solely at individuals' homes. The mobile crisis teams do not have control of where an individual may be taken prior to their notification of the need for an assessment.</p> <p>Despite the Commonwealth's assertion of compliance, if measures are needed to confirm compliance with this provision of the Settlement Agreement, the Commonwealth recommends the following:</p> <ol style="list-style-type: none"> 1. At least 86% of REACH staff meet REACH training requirements. 2. At least 86% of individuals assessed as needing a Crisis Education and Prevention Plan ("CEPP") have such plans developed within 45 days of the date the need was identified. 3. At least 86% of family members and providers providing care to an individual with a CEPP will receive training in implementing the CEPP. 4. Data show a decreasing trend in the total admissions and lengths of stay of individuals with developmental disabilities admitted to state-operated psychiatric hospitals and to the extent known by DBHDS, to private psychiatric hospitals.

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			<p>In order to meet and demonstrate that these measures are met, the Commonwealth will necessarily have to periodically assess REACH teams to determine if they are meeting training and CEPP requirements, as well as monitor admission and lengths of stay to state-operated psychiatric hospitals and to the extent known by the Commonwealth, to private psychiatric hospitals. Such actions should be left to the discretion of the Commonwealth and not imposed as a requirement of the Settlement Agreement.</p>
9	III.C.6.b.ii.B	<p>Mobile crisis teams shall assist with crisis planning and identifying strategies for preventing future crises and may also provide enhanced short-term capacity within an individual's home or other community setting.</p>	<p>The Commonwealth asserts that it will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. 86% of individuals who are known to the REACH system receive REACH crisis assessment at home, their residential setting, or other community setting (non-hospital/CSB location). 2. At least 95% of individuals admitted to state-operated psychiatric hospitals and, to the extent known by DBHDS, to private psychiatric hospitals are referred within 72 hours of admission to REACH. <p>In order to meet and demonstrate that these measures are met, the Commonwealth has taken or plans to take the following actions:</p> <ol style="list-style-type: none"> 3. DBHDS will add a provision to the CSB Performance Contract that requires CSBs to identify individuals, including children, at risk of going into crisis as early as practicable by conducting initial risk assessments in the individual's home or residential setting. 4. DBHDS will define the criteria that constitute "risk of going into crisis" for use by CSBs to determine when to make requests for initial crisis risk assessment. 5. DBHDS will provide training to all CSB Executive Directors,

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			<p>Developmental Disability Directors, case management supervisors, and case managers on how to identify individuals, including children, receiving case management who are at risk of going into crisis.</p> <p>6. DBHDS will offer training to CSB intake workers on identifying individuals, including children, who are at risk of going into crisis and how to arrange for crisis risk assessments to occur in the home or link them to REACH crisis services. DBHDS will add a provision to the CSB Performance Contract requiring training on identifying risk of crisis for case managers and CSB intake workers within 6 months of hire.</p> <p>7. DBHDS will implement an annual quality review process that measures the performance of CSBs in identifying individuals who are at risk of crisis.</p> <p>8. DBHDS will require its state-operated psychiatric hospitals to notify the CSB serving the individual whenever there is a request for admission for an individual with a developmental disability diagnosis. Through the morning reporting process, the state-operated hospital Director of Community Services or designee will notify the REACH Director or designee of admission of an individual with a developmental disability. DBHDS will request and encourage private psychiatric hospitals to notify the emergency services staff of the CSB serving the individual of requests for admission and admissions of individuals with a developmental disability diagnosis.</p> <p>9. DBHDS will track admissions to state-operated psychiatric hospitals and, to the extent known to DBHDS, to private psychiatric hospitals to determine whether there has been a referral to REACH and will implement improvement strategies if determined necessary by DBHDS.</p> <p>The Commonwealth does not believe the actions proposed in numbers 3 through 9 above should be imposed as requirements of the Settlement Agreement.</p>
10	III.C.6.b.iii.B	Crisis stabilization programs shall be used as a last resort. The State	The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:

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		shall ensure that, prior to transferring an individual to a crisis stabilization program, the mobile crisis team, in collaboration with the provider, has first attempted to resolve the crisis to avoid an out-of-home placement and, if that is not possible, has then attempted to locate another community-based placement that could serve as a short-term placement.	1. DBHDS establishes and has in operation two Crisis Therapeutic Home facilities for children and two transition homes for adults.
11	III.C.6.b.iii.D	Crisis stabilization programs shall have no more than six beds and lengths of stay shall not exceed 30 days.	The Commonwealth will achieve compliance with this provision of the Settlement Agreement when: 1. 86% of individuals receiving DD Waiver services and known to the REACH system who are admitted to CTH facilities will have a community residence identified within 30 days of admission.
12	III.C.6.b.iii.E	With the exception of the Pathways Program at SWVTC ... crisis stabilization programs shall not be located on the grounds of the Training Centers or hospitals with inpatient psychiatric beds. By July 1, 2015, the Pathways Program at SWVTC will cease providing crisis stabilization services and shall be replaced by off-site crisis stabilization programs with sufficient capacity to meet the needs of the target population in that Region.	The finding of noncompliance with this provision of the Settlement Agreement relates to not having sufficient capacity to meet the needs of the target population in the region. The actions taken to comply with Section III.C.6.b.iii.G should achieve compliance with this provision.
13	III.C.6.b.iii.G	By June 30, 2013, the	The Commonwealth will achieve compliance with this provision of the

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		Commonwealth shall develop an additional crisis stabilization program in each Region as determined necessary by the Commonwealth to meet the needs of the target population in that Region.	<p>Settlement Agreement when:</p> <p>1. DBHDS establishes and has in operation two Crisis Therapeutic Home facilities for children and two transition homes for adults.</p> <p>Although not required by the Settlement Agreement, as an additional strategy to prevent institutionalization of children due to behavioral or mental health crises, the Commonwealth plans to implement, as an element of its broader mental health system and in addition to the crisis stabilization programs required by this provision of the Settlement Agreement, out-of-home crisis therapeutic prevention host-home like services for children connected to the REACH system who are experiencing a behavioral or mental health crisis and would benefit from this service through statewide access.</p>
14	III.C.7.a	To the greatest extent practicable, the Commonwealth shall provide individuals in the target population receiving services under this Agreement with integrated day opportunities, including supported employment.	<p>With the redesign of the DD Waivers, the Commonwealth now offers a full array of integrated day services. The challenge for the Commonwealth has been to promote the discussion of these services during individual service planning.</p> <p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. 86% of individuals aged 18-65 who are receiving waiver services will have a discussion regarding employment documented as part of their ISP planning process. 2. At least 50% of individuals aged 18-65 who are receiving waiver services will have goals related to employment included in their annual ISP. 3. At least 86% of individuals who are receiving waiver services and have employment services authorized in their ISP will have a provider and begin services within 60 days. 4. At least 86% of individuals aged 14-18 who are receiving waiver services will have goals related to skill building toward employment included in their

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			<p>annual ISP.</p> <p>5. At least 86% of individuals who are receiving waiver services will have a discussion regarding the opportunity to be involved in their community through community engagement services provided in integrated settings documented as part of their ISP planning process.</p> <p>6. At least 86% of individuals who are receiving waiver services will have goals related to community involvement included in their annual ISP.</p> <p>The plain language of this provision of the Settlement Agreement does not require training or a quality review and improvement process so indicators purporting to require the Commonwealth to do those things should not be imposed. In order to meet these measures, the Commonwealth acknowledges that it will have to provide training to case managers and perform quality improvement reviews. The content of such training and the scope of such reviews should be left to the Commonwealth's discretion.</p>
15	III.C.7.b	The Commonwealth shall maintain its membership in the State Employment Leadership Network (“SELN”) established by the National Association of State Developmental Disability Directors. The Commonwealth shall establish a state policy on Employment First for the target population and include a term in the CSB Performance Contract requiring application of this policy. The Employment First policy shall, at a minimum, be based on the following principles: (1) individual supported employment in integrated work settings is the first and priority service option for	<p>The Commonwealth asserts that it is compliant with this provision of the Settlement Agreement. The Commonwealth maintains its membership in the SELN.</p> <p>The Commonwealth has a state policy on Employment First, which can be found at http://www.dhhs.virginia.gov/assets/document-library/archive/library/state%20board/approved%201044%20_sys_%2012-1.pdf. The Employment First Policy is based on the three principles set forth in this section of the Settlement Agreement.</p> <p>The CSB Performance Contract contains a provision that requires application of the Employment First Policy. <i>See</i> Section 4.e.9 of the FY2019 CSB Performance Contract found at http://www.dhhs.virginia.gov/assets/doc/BH/oss/19-pc-contract-june-8-2018.pdf.</p> <p>The Commonwealth has one employment service coordinator who monitors</p>

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		individuals with intellectual or developmental disabilities receiving day program or employment services from or funded by the Commonwealth; (2) the goal of employment services is to support individuals in integrated work settings where they are paid minimum or competitive wages; and (3) employment services and goals must be developed and discussed at least annually through a person-centered planning process and included in ISPs. The Commonwealth shall have at least one employment service coordinator to monitor implementation of Employment First practices for individuals in the target population.	implementation of Employment First practices for individuals in the target population.
16	III.C.8.a	The Commonwealth shall provide transportation to individuals receiving HCBS waiver services in the target population in accordance with the Commonwealth's HCBS Waivers.	The Commonwealth asserts that it is in compliance with this provision. There are no requirements pertaining to transportation contained in the HCBS Waivers. A new contract with the transportation vendor began in April 2018. Although not required by the Settlement Agreement, the contract contained terms recommended by the Independent Reviewer's consultant. The contract is monitored via weekly meetings producing monthly internal reports. There are no systemic issues noted with the contract at this time.
17	III.C.8.b.	The Commonwealth shall publish guidelines for families seeking intellectual and developmental disability services on how and where to apply for and obtain services. The guidelines will be updated annually and will be	The Commonwealth asserts that it is compliant with this provision. The My Life, My Community website is now operational. It was developed and is operated by VirginiaNavigator, a non-profit organization that maintains a family of websites to provide information about health, aging, disability, and post-military resources available to Virginians. The site can be found at http://mylifemycommunityvirginia.org/ . It includes information on services and

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		provided to appropriate agencies for use in directing individuals in the target population to the correct point of entry to access services.	how and where to apply. A link to the website is on the DBHDS website. This website went live March 2019, and DBHDS announced and previewed it at the quarterly Settlement Agreement Stakeholder meeting on March 25, 2019. By the end of FY19, DBHDS will have distributed the website to other stakeholders, the provider listserve, case management groups, and referral sources. Pursuant to contract, VirginiaNavigator is responsible for measuring satisfaction/usefulness of the site and keeping the site up to date.
18	III.D.1	<p>The Commonwealth shall serve individuals in the target population in the most integrated setting consistent with their informed choice and needs.</p> <p>(III.B.2: The Commonwealth shall not exclude any otherwise qualifying individual from the target population due to the existence of complex behavioral or medical needs or of co-occurring conditions, including but not limited to, mental illness, traumatic brain injuries, or other neurological conditions.)</p>	<p>This provision of the Settlement Agreement sets out the ultimate goal of the Agreement. If the Commonwealth is compliant with the Settlement Agreement as a whole, it should result in compliance with this provision. The Commonwealth proposes the following measures to demonstrate compliance with this provision:</p> <ol style="list-style-type: none"> 1. DBHDS service authorization data will continue to demonstrate an increase in the percentage of the DD Waiver population being served in the most integrated settings. 2. 86% of individuals receiving waiver services will begin to receive authorized hours of behavioral supports (Therapeutic Consultation) within 60 days from the date these supports are identified as a need in the individual's ISP. 3. 86% of individuals receiving waiver services will begin to receive authorized units of private duty and skilled nursing services within 60 days from the date these supports are identified as a need in the individual's ISP. 4. DBHDS will continue to screen children through a VIDES assessment prior to admission to an ICF/IID. 5. DBHDS will track individuals under 21 who have received a PASRR screening for nursing facility entry or a VIDES assessment for ICF/IID entry and have been admitted. 6. DBHDS will prioritize efforts to discharge individuals aged 10 and under from ICFs/IID.

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			<p>7. DBHDS provides a Community Transition Guide to families of children in nursing facilities and ICFs/IID. The Guide is provided when a request for a VIDES assessment is made and every 6 months thereafter. The Guide is designed to provide practical information to children and their families who are preparing to transition from nursing facilities and ICFs/IID to homes in the community. The Guide assists families in preparing to move to a new home through an introduction to resources and services such as DD Waivers, CSBs, and the DBHDS Community Transition Team that can assist the family with the transition process. Funds are available to CSBs for the provision of case management during the discharge process if it exceeds the 30 days allowable by Medicaid.</p> <p>8. DBHDS has a process to review and approve, as available, requests for emergency waiver slots and other funding supports to address emergency situations when alternate options have been exhausted.</p> <p>In order to meet these outcome measures, the Commonwealth will have to develop provider capacity. To do this, DBHDS implemented the Provider Data Summary, a framework that produces an ongoing, system-wide gap analysis on the availability of integrated services including services to people with complex needs (i.e., individuals with SIS© level 6 and 7 support needs). DBHDS engages providers in this provider development effort through:</p> <ul style="list-style-type: none"> • semi-annual webinars; • written reports on service availability and gaps in services; • providing population and service data by locality; • quarterly regional provider meetings; and • the availability of Community Resource Consultants for technical assistance with program development. <p>DBHDS will continue to include information in the gap analysis report (required by Section V.D.6) on a semi-annual basis and will organize and make available training resources for providers supporting people with the most complex needs (i.e., those with a SIS© score of Level 6 or 7). Reports will</p>

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			<p>include regional data regarding nursing and behavioral support services, so that gaps in those services can be identified and services developed.</p> <p>DBHDS provides resources for staff training and other programmatic expenses through Jump-Start. Providers seeking to fill an identified gap can request up to \$50,000 per year for up to two service options while funding is available. Funding for environmental modifications and adaptive equipment continues to be available under the waivers to support individuals with complex needs in more integrated settings.</p> <p>DBHDS is participating in the national Business Acumen Learning Collaborative and is finalizing a Provider Readiness Education Program, which will provide education to strengthen providers early in the licensing process and also serve to support providers who are under remediation with Medicaid or Licensing.</p> <p>DBHDS has established targets for provider capacity and competency that include:</p> <p>20% of Virginia localities have a minimum of two of four service options supporting individuals with independent living by 6/30/2020 (i.e., at least two options of the following in each locality: in-home support services, independent living supports, supported living, and/or shared living).</p> <p>45% of Virginia localities have a minimum of two community engagement service providers supporting individuals by 6/30/2019.</p> <p>15% of all newly licensed providers of DD services attend Provider Readiness Education Program training by 6/30/2020.</p>
19	III.D.5	Individuals in the target population shall not be served in a sponsored home or any congregate setting, unless such placement is consistent with the individual's choice after	<p>The findings of noncompliance with this provision relate solely to family-to-family and peer programs. The Commonwealth asserts that it will be in compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. At least 86% of individuals on the waiver waitlist as of December 2019 have

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		<p>receiving options for community placements, services, and supports consistent with the terms of Section IV.B.9 below.</p> <p>(IV.B.9: PSTs and the CSB case manager shall coordinate with the specific type of community providers identified in the discharge plan as providing appropriate community-based services for the individual, to provide individuals, their families, and, where applicable, their Authorized Representative with opportunities to speak with those providers, visit community placements (including, where feasible, for overnight visits) and programs, and facilitate conversations and meetings with individuals currently living in the community and their families, before being asked to make a choice regarding options. The Commonwealth shall develop family-to-family and peer programs to facilitate these opportunities.)</p>	<p>received information on accessing Family-to-Family and Peer Mentoring resources.</p> <p>2. The Virginia Choice Form is completed as part of the annual ISP process. DBHDS will update the form to include a reference to the Family-to-Family Program and Peer Mentoring resources so that individuals and families can be connected to the support when initial services are being discussed or a change in services is requested.</p> <p>3. The Commonwealth will track and report on outcomes with respect to the number of individuals receiving DD waiver services with whom family-to-family and the peer-to-peer supports have contact and the number who receive the service.</p>
20	III.D.6	No individual in the target population shall be placed in a nursing facility or congregate setting with five or more individuals unless such placement is consistent with the individual's needs and informed choice and has been reviewed by the	<p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <p>1. 86% of non-emergency cases statewide that require referral to the RST under Section III.E.3 of the Settlement Agreement are actually referred to the RST.</p> <p>2. 86% of non-emergency cases referred to the RST meet the timeliness</p>

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		Region's Community Resource Consultant (CRC) and, under circumstances described in Section III.E below, the Regional Support Team (RST).	<p>requirements of the DBHDS RST Protocol.</p> <p>This provision of the Settlement Agreement does not require quality assurance review, data analysis, or a quality improvement process so indicators purporting to require the Commonwealth to do those things should not be imposed. The Commonwealth acknowledges, however, that in order to meet these standards and demonstrate that it meets these standards, the Commonwealth, through DBHDS, will necessarily have to perform quality assurance reviews, data analysis, and quality improvement activities at both the state and CSB levels. The scope and breadth of those activities should be at the Commonwealth's discretion.</p>
21	III.E.2	The CRC may consult at any time with the Regional Support Team (RST). Upon referral to it, the RST shall work with the Personal Support Team ("PST") and CRC to review the case, resolve identified barriers, and ensure that the placement is the most integrated setting appropriate to the individual's needs, consistent with the individual's informed choice. The RST shall have the authority to recommend additional steps by the PST and/or CRC.	The Independent Reviewer found the Commonwealth to be in compliance with this provision in his December 2018 report.
22	IV.A	To ensure that individuals are served in the most integrated setting appropriate to their needs, the Commonwealth shall develop and implement discharge planning and transition processes at all Training Centers consistent with the terms of this Section and person-centered principles.	To comply with Section IV of the Settlement Agreement, the Commonwealth developed a 12-week discharge process for use in all of its training centers. As of April 15, 2019, the Commonwealth's implementation of this process has resulted in the discharge of 762 individuals from training centers into more integrated settings in the community and the closure of three training centers. Just 51 individuals remain in Central Virginia Training Center (CVTC), which is scheduled to close in 2020. The current combined census of CVTC, Southeastern Virginia Training Center (scheduled to remain open with a capacity of 75), and Hiram W. Davis Medical Center (scheduled to remain open) is 149.

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			<p>DBHDS directs the training center discharge planning process through its Departmental Instruction 216(ITS)12 – Training Center Responsibilities Related to Person-Centered Discharge Planning (“DI 216”). DI 216 defines person-centered as “focusing on the needs and preferences of the individual (not the system or service availability) and empowering and supporting individuals in defining the direction for their own lives and promoting self-determination, and community inclusion--recognizing that all individuals are capable of living in smaller, integrated settings when supports are designed around an individual, and not around a program.” All training center leadership and clinical and other employees who serve on Personal Support Teams are required to complete training on implementation of DI 216 and person-centered thinking, and documentation of this training is maintained in employee personnel records.</p> <p>Additional detail regarding the Commonwealth’s compliance with other provisions of Section IV is provided below.</p>
23	IV.B.4.	The goal of treatment and discharge planning shall be to assist the individual in achieving outcomes that promote the individual’s growth, wellbeing, and independence, based on the individual’s strengths, needs, goals, and preferences, in the most integrated settings in all domains of the individual’s life (including community living, activities, employment, education, recreation, healthcare, and relationships).	<p>The Commonwealth’s treatment and discharge planning is consistent with this provision. To assist individuals’ in achieving outcomes that promote their growth, wellbeing, and independence, training centers implement DI 216. This policy directs assessment of individuals’ strengths, needs, goals, and preferences. Individuals’ needs are assessed, as appropriate, by physicians, nurses, psychologists, social workers, and other ancillary services professionals (e.g., physical therapists and nutritionists). Individuals and their family members participate in discharge planning meetings, and their preferences are sought and documented. Assessments include identification of what is “Important To” and “Important For” the individual, what a “Good Life” for them would include, and their “Talents/Contributions.” Community providers who can provide needed services and supports upon discharge to the community are identified during the discharge planning process. These elements can be found in DI 216 and/or the training center Discharge Plan and Discussion Record.</p> <p>These assessments and discharge planning discussions and decisions are documented in the Discharge Plan and Discussion Record. As directed by DI 216, the Discharge Plan and Discussion Record evaluates and documents needed</p>

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			<p>supports and services in the following areas: Staffing supports, Nutritional, Environmental, Medical/nursing, Behavioral, Supported employment/day support, Mental health, Substance abuse, Physical therapy, Occupational therapy, Speech/language therapy, Communication, Equipment, Transportation, Social, Recreational, Financial, Legal, Advocacy, Authorized Representative appointment, Educational, Housing, and Accessibility.</p> <p>When a potential residential provider is selected, DBHDS staff facilitate trial visits to the home. DBHDS provides training to the selected provider related to the individual's specific needs to ensure they are prepared to support the individual in the home. The provider receives a thorough, documented history of the individual's status and needs. The visits are reviewed by the PST to determine if the potential provider will meet the individual's needs, address any problems that were identified on the visits, finalize a projected move date, and begin making final arrangements to ensure all essential supports are in place prior to the move.</p> <p>Once an individual has discharged, DBHDS conducts post-move monitoring to ensure the continuation of supports and services as identified in the pre- and post-move process. The post-move monitoring process continues for a minimum of one year post-discharge and is completed in a series of visits by training center post-move monitoring staff, DBHDS Office of Human Rights staff, the CSB Support Coordinator, and as needed, by the DBHDS Office of Licensing, Community Resource Consultants, and the DBHDS Office of Integrated Health.</p> <p>The Independent Reviewer last reviewed the discharge provisions of Section IV of the Settlement Agreement for his June 13, 2018 Report to the Court. He concluded that the Commonwealth has created a well-organized and well-documented discharge planning and transition process and that it has led to positive outcomes for individuals. June 13, 2018 Report to the Court at 63. The stated basis for the finding of Non Compliance with this provision, however, was a lack of integrated day activities in the community. <i>Id.</i> at 18. At that time, integrated day activity options were still a relatively new service, having first become available with the redesign of the waivers in September 2016. Since then, 507 of the 670 individuals who discharged from a training center with a</p>

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			waiver have accessed integrated day activity options. Still, it will take some time for individuals who have resided in institutions, and their families, to become comfortable with new day programs. While this may indicate continued growth of the integrated day activity service option, it is not a deficiency in the Commonwealth's discharge planning process.
24	IV.B.6	Discharge planning will be done by the individual's PST... Through a person-centered planning process, the PST will assess an individual's treatment, training, and habilitation needs and make recommendations for services, including recommendations of how the individual can be best served.	<p>Discharge planning at the training centers is done by individuals' Personal Support Teams ("PSTs"). In accordance with DI 216, PSTs include: "professionals, paraprofessionals, and non-professionals who possess the knowledge, skills, and expertise necessary to accurately identify a specific individual's comprehensive array of needs and design a program that is responsive to those needs. At a minimum, the PST includes the individual, Authorized Representative, CSB support coordinator, and other invited members of the individual's interdisciplinary team or those involved in the individual's life." As noted above in the response to Section IV.A, this process is person-centered. In accordance with DI 216, service and support needs are based on the individual's strengths, desires, and preferences related to community integration. Assessments are presented during the discharge planning process by relevant professional disciplines. The PST presents information to the individual and authorized representative about specific community placements, services, and supports and provides an opportunity to discuss and meaningfully consider those options. Recommendations for services to meet identified treatment, training, and habilitation needs are made and documented in the individual's Discharge Plan and Discussion Record.</p> <p>The Independent Reviewer's stated basis for a finding of noncompliance with this provision is a lack of recommendations for integrated day services in discharge plans. Training center staff did not make recommendations for integrated day services before integrated day activity options were included in the Commonwealth's waiver service array. A dedicated staff at Central Virginia Training Center is now responsible for developing and ensuring that integrated day activity opportunities are incorporated into individuals' current Discharge Plan and Discussion Record.</p>
25	IV.B.15	In the event that a PST makes a	The Independent Reviewer found the Commonwealth in Compliance with this

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		recommendation to maintain placement at a Training Center or to place an individual in a nursing home or congregate setting with five or more individuals, the decision shall be documented, and the PST shall identify the barriers to placement in a more integrated setting and describe in the discharge plan the steps the team will take to address the barriers. The case shall be referred to the Community Integration Manager and Regional Support Team in accordance with Sections IV.D.2.a and f and IV.D.3 and such placements shall only occur as permitted by Section IV.C.6.	<p>provision, and IV.D.2.a and IV.D.3, in his June 13, 2018 Report to the Court. The Commonwealth continues to implement the processes that led to compliance.</p> <p>Throughout the 12-week discharge planning process implemented in accordance with DI 216, the PST identifies multiple service options that can meet the individual's assessed needs. These options are discussed by the PST during discharge planning meetings, which include the individual and the individual's authorized representative. Barriers to more integrated settings are identified and addressed as possible during this process. <i>See, e.g.</i>, DI 216 at 16-17, which defines PST procedures for identifying barriers to moving to the most integrated setting and strategies intended to overcome those barriers. In the event that the individual ultimately chooses to continue to receive services in a training center or discharge to a nursing home or congregate setting with five or more individuals, this decision is documented in the individual's Discharge Plan and Discussion Record. Section 10 of the Discharge Plan and Discussion Record prompts completion of a Regional Support Team ("RST") referral form and review by the training center Community Integration Manager. The Community Integration Manager immediately submits a referral to the RST upon such recommendation. The DBHDS Regional Support Team Protocol and DI 216 direct referral to the RST when a recommendation is made for the individual to remain in a training center or move to a nursing home or congregate setting with five or more individuals.</p>
26	IV.C.5	The Commonwealth shall ensure that the PST will identify all needed supports, protections, and services to ensure successful transition in the new living environment, including what is most important to the individual as it relates to community placement. The Commonwealth, in consultation with the PST, will determine the essential supports needed for successful and optimal	<p>In his June 13, 2018 Report to the Court, the Independent Reviewer determined the Commonwealth is in Compliance with this provision of the Settlement Agreement.</p> <p>Personal Support Teams identify supports and services needed to ensure successful transition to a community placement. As noted above, this includes assessment of the individual's current support needs in the following areas: staffing support, supported employment/day options, environment, medical/nursing, mental health, behavioral, nutritional, physical therapy, speech language therapy, communication, equipment, transportation, social, recreational, legal, and advocacy. Supports and services that are "Important To"</p>

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		community placement. The Commonwealth shall ensure that essential supports are in place at the individual's community placement prior to the individual's discharge from the Training Center. This determination will be documented. The absence of those services and supports identified as non-essential by the Commonwealth, in consultation with the PST, shall not be a barrier to transition.	<p>and "Important For" the individual are determined based on review of the individual's profile, Comprehensive Functional Assessment recommendations, SIS© and other related assessments, and event/incident data (e.g., hospitalizations, falls, aspiration). These are documented in Section 3 of the Discharge Plan and Discussion Record. <i>See also</i> DI 216 at 11.</p> <p>In addition, in consultation with the PST, the Commonwealth determines essential supports needed for successful and optimal community placement. DI 216 directs the procedures for identifying essential and non-essential supports – see DI 216 at 15-16 – and essential health and safety supports are documented in Section 5 of the Discharge Plan and Discussion Record. In his June 13, 2018 Report to the Court, the Independent Reviewer stated in his comments to Section IV.C.5 that, "essential supports were in place prior to discharge for...18 of 19 (94.7%) who were studied during the twelfth review period[]." <i>See</i> Report of the Independent Reviewer on Compliance with the Settlement Agreement, June 13, 2018, at 23.</p>
27	IV.D.3	The Commonwealth will create five Regional Support Teams, each coordinated by the CIM. The Regional Support Teams shall be composed of professionals with expertise in serving individuals with developmental disabilities in the community, including individuals with complex behavioral and medical needs. Upon referral to it, the Regional Support Team shall work with the PST and CIM to review the case and resolve identified barriers. The Regional Support Team shall have the authority to recommend additional steps by the PST and/or CIM. The CIM may consult at any time with the Regional Support	<p>In his June 13, 2018 Report to the Court, the Independent Reviewer determined the Commonwealth is in Compliance with this provision of the Settlement Agreement.</p> <p>A Regional Support Team ("RST") is established in each Region.</p> <p>The DBHDS Regional Support Team Protocol defines Regional Support Team as a, "Group of professionals with expertise in serving individuals with developmental disabilities in the community appointed by the commissioner or his designee who provide recommendations to support placement in the most integrated setting appropriate to an individual's needs and consistent with the individual's informed choice." Each RST includes members with experience with individuals with complex behavioral and medical needs (e.g., representatives from REACH, medical representatives from the training center in the region and/or community, and a Registered Nurse Community Consultant).</p> <p>In accordance with the DBHDS Regional Support Team Protocol, RSTs meet at least once per month, or more often as necessary. Emergency meetings convene</p>

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		<p>Teams and will refer cases to the Regional Support Teams when:</p> <p>a. The CIM is unable, within 2 weeks of the PST's referral to the CIM, to document attainable steps that will be taken to resolve any barriers to community placement enumerated in Section IV.D.2 above.</p> <p>b. A PST continues to recommend placement in a Training Center at the second quarterly review following the PST's recommendation that an individual remain in a Training Center (Section IV.D.2.f), and at all subsequent quarterly reviews that maintain the same recommendation. This paragraph shall not take effect until two years after the effective date of this Agreement.</p> <p>c. The CIM believes external review is needed to identify additional steps that can be taken to remove barriers to discharge.</p>	<p>as requested by the training center Community Integration Manager or the RST Coordinator for review of emergency referrals. The Community Integration Manager may consult with the RST at any time for assistance in facilitating integrated community living. During RST meetings, referrals and barriers are reviewed, resources are identified, and recommendations are provided. The RST Coordinator or designee will forward the RST Recommendations Tracker to the Community Integration Manager, case manager, and case manager supervisor as soon as possible but no later than five business days after the RST meeting. The Community Integration Manager responds to RST recommendations within 15 business days unless otherwise determined and noted on the RST Recommendations Tracker. The Recommendations Tracker provides the Community Integration Manager written documentation of outcomes and final disposition.</p>
28	V.A	To ensure that all services for individuals receiving services under this Agreement are of good quality, meet individuals' needs, and help individuals achieve positive outcomes, including avoidance of harms, stable community living, and increased integration, independence, and self-determination in all life	This is an introductory section. No action steps are needed.

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		domains (e.g., community living, employment, education, recreation, healthcare, and relationships), and to ensure that appropriate services are available and accessible for individuals in the target population, the Commonwealth shall develop and implement a quality and risk management system that is consistent with the terms of this Section.	
29	V.B	The Commonwealth's Quality Management System shall: identify and address risks of harm; ensure the sufficiency, accessibility, and quality of services to meet individuals' needs in integrated settings; and collect and evaluate data to identify and respond to trends to ensure continuous quality improvement.	<p>If the Commonwealth is compliant with Section V of the Settlement Agreement as a whole, it should result in compliance with this provision. The Commonwealth asserts that it will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. DBHDS implements an incident management process that is responsible for review and follow-up of all reported serious incidents, as defined in the Licensing Regulations. <ol style="list-style-type: none"> a. DBHDS develops incident management protocols that include triage criteria and a process for follow-up and coordination with licensing specialists and investigators and human rights advocates as well as referral to other DBHDS Offices as appropriate. b. Processes enable DBHDS to identify and, where possible, prevent or mitigate future risks of harm. c. Follow-up on individual incidents, as well as review of patterns and trends, will be documented. 2. The Commonwealth has a Risk Management Review Committee. The Risk Management Review Committee has a charter that defines its purpose, membership, frequency of meetings, responsibilities, and its relationship to other committees, such as the Quality Improvement Committee and Mortality Review Committee. <ol style="list-style-type: none"> a. The Risk Management Review Committee meets at least 8 times during the year. 3. Meeting minutes document that the Risk Management Review Committee

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			<p>reviews aggregate incident data at least four times per year by various levels such as by region, by CSB, by provider locations, by individual, or by levels and types of incidents. Data is also reviewed across time for trends.</p> <p>4. Meeting minutes document that the Risk Management Review Committee reviews data on human rights allegations, including allegations of physical or sexual abuse, and allegations of financial exploitation.</p> <p>5. Meeting minutes document that the Risk Management Review Committee uses the results of data reviewed to identify areas for improvement. The Risk Management Review Committee identifies priorities and drafts quality improvement plans as needed as determined by the Risk Management Review Committee, including identified strategies and metrics to monitor success, or refers these areas to the Quality Improvement Committee for consideration for targeted quality improvement efforts. The Risk Management Review Committee or Quality Improvement Committee ensures that each quality improvement plan is implemented.</p> <p>6. The DBHDS Office of Licensing assesses provider compliance with serious incident reporting during investigations and as part of the annual inspection process. This includes assessing whether:</p> <ul style="list-style-type: none"> a. Serious incident reports are filed within 24 hours of identification. b. The provider has conducted at least quarterly review of all level 1 serious incidents, and a root cause analysis of all level 2 and level 3 serious incidents; c. The root cause analysis, if required by the Licensing Regulations, includes i) a detailed description of what happened; ii) an analysis of why it happened, including identification of underlying causes under the control of the provider; and iii) identified solutions to mitigate its reoccurrence. <p>7. The Risk Management Review Committee conducts a look-behind review of a random sample of reported serious incidents. The review will evaluate whether the incident was triaged appropriately according to developed protocols and if appropriate follow-up and mitigation occurred when necessary. Results will be reviewed at least quarterly. The Risk Management Review Committee will recommend improvement activities when necessary and track implementation of these activities.</p> <p>8. Meeting minutes document that the Risk Management Review Committee</p>

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			<p>reviews summary reports from the incident management team regarding provider compliance with incident reporting requirements, identifies areas for improvement, and recommends the initiation of quality improvement activities when necessary.</p> <p>9. The Risk Management Review Committee establishes a goal that within one year at least 86% of reported serious incidents assessed by licensing reviews meet the criteria identified in number 6. If this goal is not met the Risk Management Review Committee or Quality Improvement Committee identifies whether a quality improvement plan is necessary, and if so, oversees implementation.</p> <p>10. The Commonwealth informs providers, case managers, and other stakeholders of any systemic interventions required as the result of trend analyses based on information from investigations of reports of suspected or alleged abuse, neglect, serious incidents, and deaths. The Commonwealth informs providers of their responsibility to address such recommendations in a timely manner by implementing them or substantiating that they are unnecessary.</p> <p>11. DBHDS' Quality Management System documents that it uses the processes in V.D.2-3 and considers all resulting findings of these processes to:</p> <ol style="list-style-type: none"> Identify any areas of needed improvement; Develop improvement strategies and associated measures of success; Implement the strategies within 3 months of identification; Monitor identified outcomes at least annually using identified measures; Revise the improvement strategy as needed; and Identify areas of success to be expanded or replicated.
30	V.C.1	The Commonwealth shall require that all Training Centers, CSBs, and other community providers of residential and day services implement risk management processes, including establishment of uniform risk triggers and thresholds, that enable them to adequately	<p>The Commonwealth asserts that it is in compliance with this provision of the Settlement Agreement. The Licensing Regulations require providers and CSBs to implement risk management processes, including establishment of uniform risk triggers and thresholds. <i>See</i> 12 VAC 35-105-520 found at http://register.dls.virginia.gov/details.aspx?id=6997.</p> <p>The plain language of this provision of the Settlement Agreement does not require training, publication of guidance, or quality review and improvement</p>

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		address harms and risks of harm. Harm includes any physical injury, whether caused by abuse, neglect, or accidental causes.	<p>processes so indicators purporting to require the Commonwealth to do those things should not be imposed. Although not required by this provision of the Agreement, DBHDS has taken or plans to take the following actions:</p> <ol style="list-style-type: none"> 1. The DBHDS Office of Licensing has published guidance on serious incident and quality improvement requirements. Additional guidance on risk management requirements will be published to include: <ol style="list-style-type: none"> a. Designation of an individual responsible for risk management with specific training and expertise; b. Development of a written plan to identify, monitor, reduce, and minimize harms and risks of harm, including personal injury, infectious disease, property damage or loss, and other sources of potential liability; c. Conducting annual risk assessments assessing: the environment of care; clinical assessment or reassessment processes; staff competence and adequacy of staffing; use of high risk procedures, including seclusion and restraint; and review of serious incidents. d. Incorporation of uniform risks triggers and thresholds as defined by DBHDS. 2. At least 86% of licensed providers of DD services have been assessed for their compliance with risk management requirements in the Licensing Regulations during their annual inspections. 3. At least 95% of licensed providers of DD services determined to be non-compliant with the risk management requirements of the Licensing Regulations will have developed a corrective action plan. 4. DBHDS will publish uniform risk triggers and thresholds for use by all providers by September 30, 2019 on the Department's website. 5. DBHDS will publish guidance for providers on implementing uniform risk triggers and thresholds.
31	V.C.3	The Commonwealth shall have and implement a process to investigate reports of suspected or alleged abuse, neglect, critical incidents, or deaths and identify remediation steps taken. The Commonwealth shall be	<p>The Independent Reviewer found the Commonwealth to be in compliance with this provision in his December 2018 report.</p> <p>DBHDS has internal protocols to investigate reports of suspected or alleged abuse, neglect, critical incidents, and deaths and identify remediation steps taken that adhere to the requirements in the Licensing Regulations and the <i>Regulations</i></p>

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		required to implement the process for investigation and remediation detailed in the Virginia DBHDS Licensing Regulations (12 VAC 35-105-160 and 12 VAC 35-105-170 in effect on the effective date of this Agreement) and the Virginia Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services (“DBHDS Human Rights Regulations” (12 VAC 35-115-50(D)(3)) in effect on the effective date of this Agreement, and shall verify the implementation of corrective action plans required under these Rules and Regulations.	<i>to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by the Department of Behavioral Health and Developmental Services (“Human Rights Regulations”).</i> The DBHDS Office of Licensing verifies the implementation of corrective action.
32	V.C.4	The Commonwealth shall offer guidance and training to providers on proactively identifying and addressing risks of harm, conducting root cause analysis, and developing and monitoring corrective actions.	<p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. DHDBDS makes training and guidance available to providers on each of the following topics with an application to disability services, or at minimum to human services: <ol style="list-style-type: none"> a. proactively identifying and addressing risks of harm b. conducting root cause analysis c. developing and monitoring corrective actions. <p>This provision of the Settlement Agreement does not require the Commonwealth to offer guidance or training other than that specified above, nor does it dictate the contents of the specified guidance or training. Indicators purporting to require the Commonwealth to offer guidance and training beyond</p>

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			<p>those topics or with certain content should not be imposed. Although not required by this provision of the Agreement, DBHDS has taken or plans to take the following actions:</p> <ol style="list-style-type: none"> 2. The written guidance offered to providers (including residential, day/employment, and case management) on how to proactively identify and address risks of harm will include: <ol style="list-style-type: none"> a. Guidance on conducting individual-level risk screening b. Either a tool for risk screening selected by DBHDS or example resources for consideration by providers to use when conducting risk screening c. Guidance on how to incorporate the identified risks into service planning and how to adequately address the risks 3. DBHDS publishes Safety Alerts for risks common to people with developmental disabilities, which include considerations for how to appropriately and adequately monitor, assess, and address each risk. DBHDS will review its Safety Alerts annually and revise as necessary to ensure current guidance is included in each alert. Safety Alerts are already published on the following: <ol style="list-style-type: none"> a. choking, aspiration pneumonia, bowel obstruction, UTIs, change of mental status, and decubitus ulcers. 4. Topics for future Safety Alerts will be determined by the results of risk management activities, including mortality reviews. Safety Alerts will be posted on the DBHDS website and the DBHDS provider listserve. 5. DBHDS offers written guidance to providers on developing, implementing, and monitoring corrective actions the provider identifies as necessary, as well as identified solutions to mitigate the re-occurrence of serious incidents.
33	V.C.5	The Commonwealth shall conduct monthly mortality reviews for unexplained or unexpected deaths reported through its incident reporting system. The Commissioner shall establish the monthly mortality review team, to include the DBHDS	The Commonwealth, through the Commissioner of DBHDS, has established a Mortality Review Committee to review unexplained or unexpected deaths reported through the DBHDS incident reporting system. The membership of the Mortality Review Committee includes the DBHDS Chief Clinical Officer (Medical Director), the DBHDS Senior Director of Clinical Quality Management (formerly titled Assistant Commissioner for Quality Improvement), a member with clinical experience to conduct mortality review who is otherwise

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		<p>Medical Director, the Assistant Commissioner for Quality Improvement, and others as determined by the Department who possess appropriate experience, knowledge, and skills. The team shall have at least one member with the clinical experience to conduct mortality reviews who is otherwise independent of the State. Within ninety days of a death, the mortality review team shall: (a) review, or document the unavailability of: (i) medical records, including physician case notes and nurse's notes, and all incident reports, for the three months preceding the individual's death; (ii) the most recent individualized program plan and physical examination records; (iii) the death certificate and autopsy report; and (iv) any evidence of maltreatment related to the death; (b) interview, as warranted, any persons having information regarding the individual's care; and (c) prepare and deliver to the DBHDS Commissioner a report of deliberations, findings, and recommendations, if any. The team also shall collect and analyze mortality data to identify trends, patterns, and problems at the individual service-delivery and systemic levels and develop and implement quality improvement</p>	<p>independent of the State, and other members DBHDS has determined possess appropriate experience, knowledge, and skills, including a nurse, a medical doctor, DBHDS staff with quality improvement expertise, and DBHDS staff with programmatic/operational expertise. Findings of noncompliance with this provision are based on inadequate attendance by the members at the meetings of the Mortality Review Committee and mortality reviews not being completed within 90 days of each unexplained or unexpected death. The Commonwealth asserts that it will be in full compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. 86% or more of unexplained or unexpected deaths, as defined in the charter of the Mortality Review Committee, reported through the DBHDS incident management system will be reviewed by the Mortality Review Committee within 90 days of the date of each death. Each review will include (a) a review, or documentation of the unavailability of: (i) medical records, including physician case notes and nurse's notes, and all incident reports, for the three months preceding the individual's death; (ii) the most recent individualized program plan and physical examination records; (iii) the death certificate and autopsy report; and (iv) any evidence of maltreatment related to the death; (b) interviewing, as warranted, any persons having information regarding the individual's care; and (c) preparing and delivering to the DBHDS Commissioner a report of deliberations, findings, and recommendations, if any. 2. The Mortality Review Committee meets monthly in accordance with the quorum requirements set forth by the MRC charter, which at a minimum require the presence of a medical clinician and a member with clinical experience to conduct mortality reviews who is independent of the State. One person may satisfy both of these roles. 3. The Mortality Review Committee analyzes mortality data to identify trends, patterns, and problems in mortality at the individual service-delivery and the systemic levels among service types, residential settings, and demographic factors. 4. The Mortality Review Committee makes at least two recommendations to the

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		initiatives to reduce mortality rates to the fullest extent practicable.	<p>DBHDS Commissioner for systemic quality improvement initiatives based on patterns or trends annually.</p> <p>5. In addition to systemic quality improvement initiatives, the Mortality Review Committee will recommend, and implement through DBHDS, quality improvement initiatives, both regionally and statewide, as it determines necessary based on data patterns, trends, and the significance of the underlying issue.</p> <p>6. The Mortality Review Committee will continue to use the Mortality Review Committee Action Tracking Report to track implementation of its recommendations.</p> <p>While many of the Indicators proposed by DOJ might be good practice, they are not required by this provision of the Settlement Agreement and should not be imposed on the Commonwealth. Although not required by this provision of the Agreement, DBHDS has taken or plans to take the following actions:</p> <p>7. The Commonwealth has a charter describing standard operating procedures for conducting mortality reviews that addresses:</p> <ul style="list-style-type: none"> a. The charge to the mortality review committee b. The chair of the committee and an executive sponsor within DBHDS c. The membership of the mortality review committee (by role) d. The responsibilities of chair and members e. The frequency of activities of the committee (e.g. meetings) f. Review of unexplained or unexpected deaths reported through the DBHDS incident reporting system, what a complete mortality review must entail, standards for closing a review, committee quorum, recusal from case reviews, and confidentiality protections for reviews. g. The definitions of “unexplained” and “unexpected” deaths

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			<p>h. Periodic review and analysis of mortality data to identify trends and system-level factors related to deaths and reporting to the Quality Improvement Committee.</p> <p>8. The Mortality Review Committee membership includes at minimum (one member may satisfy up to 2 roles):</p> <ul style="list-style-type: none"> a. DBHDS Chief Clinical Officer (former title Medical Director) b. DBHDS Senior Director of Clinical Quality Management (former equivalent position Assistant Commissioner for Quality Improvement) c. A member with clinical experience to conduct mortality review who is otherwise independent of the State d. A medical doctor e. A nurse f. DBHDS staff with quality improvement expertise g. DBHDS staff with programmatic/operational expertise <p>9. DBHDS will ensure that Mortality Review Committee members receive orientation to effectively participate in the committee that includes information on the expectations regarding their roles on the committee and review of the Mortality Review Committee charter.</p> <p>10. The Mortality Review Committee membership meets at least monthly and at a frequency that enables the Committee to conduct reviews of required deaths. Meetings meet quorum requirements as set forth by the Mortality Review Committee charter, which at a minimum require the presence of 1) a medical clinician, 2) a member with clinical experience to conduct mortality reviews who is independent of the State, 3) a professional with quality improvement expertise, and 4) a professional with programmatic/operational expertise. One member may satisfy up to two roles.</p> <p>11. DBHDS has and utilizes an action tracking log to track the screening, referral, and review of deaths, as well as the recommendations of the Mortality Review Committee and their implementation.</p>

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			<p>12. DBHDS requires all licensed providers to report deaths within 24 hours of discovery. From the DBHDS incident reporting system, a monthly query is extracted from the data warehouse for reports of deaths for anyone receiving a licensed DD service, has a DD diagnosis, and/or is in a training center, and the individuals for whom these apply are entered into a data tracking log for Mortality Review Committee review. The clinical reviewers on the Mortality Review Committee review the data tracking log and information received and determine if a death is unexplained or unexpected and requires a full mortality review. This determination is made to allow sufficient time to complete a full mortality review within 90 days of an individual's death.</p> <p>13. DBHDS provides the names of individuals who receive DBHDS-licensed services on a monthly basis to the Virginia Department of Health, which runs a query of the names to see if any have a death certificate on file. The results of the query are provided to DBHDS and used by DBHDS to attempt to identify deaths that may not have been reported through the DBHDS incident management system.</p> <p>14. The Mortality Review Committee utilizes procedures set forth in its charter to prepare and deliver to the DBHDS Commissioner a report of deliberations, findings, and recommendations, if any, for reviewed deaths within 90 days of the death. If the mortality review committee elects not to make any recommendations, it affirmatively states that no recommendations were warranted.</p> <p>15. The Mortality Review Committee analyzes aggregate mortality data to identify trends, patterns, and problems in mortality at the individual service-delivery and the systemic levels among services types, residential settings, and demographic factors. It also reviews and discusses trends in the attributes of the death that were deemed as potentially preventable. Data analyzed includes at least the number and rate of deaths, findings from recently substantiated investigations of abuse/neglect, and causes/manner of death related to unexpected, accidental and intentional deaths.</p> <p>16. The Mortality Review Committee prepares an annual report of aggregate</p>

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			<p>mortality trends and patterns for all DBHDS service recipients within 6 months of the end of the year (the annual interval may be selected by DBHDS as either fiscal or calendar).</p> <p>a. The annual report will, at minimum, include analyses of patterns of mortality by demographic factors (age, gender, race), residential setting or service program, manner of death, cause of death, and by substantiated abuse/neglect and will utilize both counts and rates of deaths for DBHDS-licensed settings. The report will include the crude mortality rate of individuals with a DD Waiver, the total number of deaths in DBHDS-licensed residential settings, and cause of death in DBHDS-licensed residential settings.</p> <p>b. At minimum, a summary of the findings will be released publicly.</p> <p>17. The Mortality Review Committee documents recommendations for systemic quality improvement initiatives coming from patterns of individual reviews (on an ongoing basis), or patterns that emerge from any aggregate examination of mortality data.</p> <p>18. Data regarding the implementation of quality improvement initiatives made by the Mortality Review Committee and approved by the DBHDS Commissioner for implementation are reported to the Mortality Review Committee by DBHDS quarterly to enable the Committee to track implementation.</p>
34	V.C.6	If the Training Center, CSBs, or other community provider fails to report harms and implement corrective actions, the Commonwealth shall take appropriate action with the provider pursuant to the DBHDS Human Rights Regulations (12 VAC 35-115-240), the DBHDS Licensing Regulations (12 VAC 35-105-170), Virginia Code § 37.2-419 in effect on the effective date of this Agreement,	<p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. Licensing inspections and investigation reports show that at least 95% of providers who are cited for violating reporting and corrective action requirements contained in the Licensing Regulations or Human Rights Regulations develop and implement corrective action. 2. If a provider receives a repeat citation for violating reporting and corrective action requirements contained in the Licensing or Human Rights Regulations, DBHDS pursues further action as appropriate and approved by the DBHDS Commissioner pursuant to the Licensing or Human Rights Regulations.

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		and other requirements in this Agreement.	<p>Although not required by this provision of the Agreement, DBHDS has taken or plans to take the following actions:</p> <p>3. DBHDS produces a report on the number of citations made by the DBHDS Office of Licensing when it is discovered during an inspection or investigation that a reportable incident occurred and was not reported.</p> <p>4. DBHDS gathers information to the extent permitted by law from other sources such as the disAbility Law Center of Virginia and/or Adult Protective Services, on allegations of abuse to determine when alleged abuse may not have been reported to DBHDS.</p> <p>5. DBHDS will document the number of providers that it finds have not reported harms in accordance with the Licensing and Human Rights Regulations, the number that have been cited for this failure, and the number that have developed corrective action plans.</p>
35	V.D.1	The Commonwealth's HCBS waivers shall operate in accordance with the Commonwealth's CMS-approved waiver quality improvement plan to ensure the needs of individuals enrolled in a waiver are met, that individuals have choice in all aspects of their selection of goals and supports, and that there are effective processes in place to monitor participant health and safety. The plan shall include evaluation of level of care; development and monitoring of individual service plans; assurance of qualified providers; identification, response and prevention of occurrences of abuse, neglect and exploitation; administrative oversight of all waiver	<p>The Commonwealth implements the Quality Improvement Plan approved by CMS in the operation of its HCBS Waivers.</p> <p>The Commonwealth has established measures as required and approved by CMS in the areas of health and safety, assessment of level of care, individual service plans, and qualified providers.</p> <p>Quarterly data is collected on each measure and reviewed by the DMAS Quality Review Team. Remediation actions are implemented as necessary for those measures that fall below the CMS-established 86% standard.</p> <p>DMAS continues to provide administrative oversight for the DD Waivers, coordinate reporting to CMS, and conduct financial auditing through current processes.</p> <p>The Commonwealth asserts that it will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. At least 90% of the performance measures included in the DD Waivers

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		functions including contracting; and financial accountability. Review of data shall occur at the local and State levels by the CSBs and DMAS/DBHDS, respectively.	<p>Quality Improvement Strategy meet the CMS-target of 86% compliance for the most recent 12-month period and or have a remediation plan in place.</p> <p>Although not required by this provision of the Agreement, DBHDS has taken or plans to take the following actions:</p> <ol style="list-style-type: none"> 1. Measures relating to health and safety, individual service plans, and qualified providers are also incorporated into the DBHDS Quality Improvement Strategy Key Performance Areas and reviewed by the DBHDS Quality Improvement Committee. 2. The DMAS Quality Review Team will provide a report on the status of the performance measures included in the DD Waivers Quality Improvement Strategy with recommendations to the DBHDS Quality Improvement Committee.
36	V.D.2.a-d	<p>The Commonwealth shall collect and analyze consistent, reliable data to improve the availability and accessibility of services for individuals in the target population and the quality of services offered to individuals receiving services under this Agreement. The Commonwealth shall use data to:</p> <ol style="list-style-type: none"> a. identify trends, patterns, strengths, and problems at the individual, service-delivery, and systemic levels, including, but not limited to, quality of services, service gaps, accessibility of services, serving individuals with complex needs, and the discharge and transition planning process; 	<p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. DBHDS develops a Data Quality Plan to ensure that it is collecting and analyzing consistent reliable data. Under the Data Quality Plan, DBHDS assesses data quality, including the validity and reliability of data. This assessment provides insight into the key attributes of data quality and an overview of each data source by containing a description of the content of the data source and explaining how the data is collected, organized, and stored. 2. DBHDS analyzes the data collected under V.D.3.a-h to identify trends, patterns, and strengths at the individual, service delivery, and system level in accordance with its Quality Improvement Strategy, detailed further in V.H.3. The data is used to identify opportunities for improvement, track the efficacy of interventions, and enhance outreach and information. 3. DBHDS reviews at least annually data from the Quality Service Reviews and National Core Indicators data related to the quality of services, and individual level outcomes to identify potential service gaps or issues with the accessibility of services. Strategic improvement recommendations are identified and implemented as needed from this review by DBHDS.

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		<ul style="list-style-type: none"> b. develop preventative, corrective, and improvement measures to address identified problems; c. track the efficacy of preventative, corrective, and improvement measures; and d. enhance outreach, education, and training. 	
37	V.D.3.a-h	<p>The Commonwealth shall begin collecting and analyzing reliable data about individuals receiving services under this Agreement selected from the following areas in State Fiscal Year 2012 and will ensure reliable data is collected and analyzed from each of these areas by June 30, 2014. Multiple types of sources (e.g., providers, case managers, licensing, risk management, Quality Service Reviews) can provide data in each area, though any individual type of source need not provide data in every area:</p>	<p>DBHDS has established three Key Performance Area work groups aimed at addressing the eight domains identified in this provision of the Settlement Agreement. The Key Performance Area workgroups establish the priority quality or performance improvement initiatives, data metrics, and outcomes of the domains assigned to their respective workgroup. The workgroups and assigned domains are:</p> <ul style="list-style-type: none"> 1) Health and Wellness Workgroup, which encompasses: <ul style="list-style-type: none"> a. Safety and Freedom from Harm; b. Physical, Mental, and Behavioral Health Wellbeing; c. Avoiding Crisis 2) Provider Competency and Capacity Workgroup, which encompasses: <ul style="list-style-type: none"> a. Provider Capacity; b. Access to Services 3) Community Integration and Inclusion Workgroup, which encompasses: <ul style="list-style-type: none"> a. Community Inclusion b. Choice and Self Determination c. Stability in the Community <p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. Each Key Performance Area workgroup identifies and develops at least one measure and analyzes data regarding each of the domains assigned. Quality improvement initiatives are developed as necessary. Relevant data is collected

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			<p>by the workgroup to inform and monitor the quality improvement initiative. The Office of Data Quality and Visualization conducts the data analysis for each of the workgroups. The Data Quality Plan informs the workgroups about the validity and reliability of the data sources used for the quality improvement or performance improvement initiative.</p> <p>2. The outcomes of each quality improvement initiative are monitored by each individual workgroup and presented to the DBHDS Quality Improvement Committee for oversight and system-level monitoring.</p> <p>3. The Quality Management Annual Report and Evaluation describes the accomplishments and barriers for each of the workgroups.</p>
	V.D.3.a	Safety and freedom from harm (e.g., neglect and abuse, injuries, use of seclusion or restraints, deaths, effectiveness of corrective actions, licensing violations);	The actions to achieve compliance listed in Section V.D.3.a-h will also achieve compliance with this provision of the Settlement Agreement.
	V.D.3.b	Physical, mental, and behavioral health and well being (e.g., access to medical care (including preventative care), timeliness and adequacy of interventions (particularly in response to changes in status));	The actions to achieve compliance listed in Section V.D.3.a-h will also achieve compliance with this provision of the Settlement Agreement.
	V.D.3.c	Avoiding crises (e.g., use of crisis services, admissions to emergency rooms or hospitals, admissions to Training Centers or other congregate settings, contact with criminal justice system);	The actions to achieve compliance listed in Section V.D.3.a-h will also achieve compliance with this provision of the Settlement Agreement.
	V.D.3.d	Stability (e.g., maintenance of chosen living arrangement, change in providers, work/other day program	The actions to achieve compliance listed in Section V.D.3.a-h will also achieve compliance with this provision of the Settlement Agreement.

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		stability);	
	V.D.3.e	Choice and self-determination (e.g., service plans developed through person-centered planning process, choice of services and providers, individualized goals, self-direction of services);	The actions to achieve compliance listed in Section V.D.3.a-h will also achieve compliance with this provision of the Settlement Agreement.
	V.D.3.f	Community inclusion (e.g., community activities, integrated work opportunities, integrated living options, educational opportunities, relationships with non-paid individuals);	The actions to achieve compliance listed in Section V.D.3.a-h will also achieve compliance with this provision of the Settlement Agreement.
	V.D.3.g	Access to services (e.g., waitlists, outreach efforts, identified barriers, service gaps and delays, adaptive equipment, transportation, availability of services geographically, cultural and linguistic competency); and	The actions to achieve compliance listed in Section V.D.3.a-h will also achieve compliance with this provision of the Settlement Agreement.
	V.D.3.h	Provider capacity (e.g., caseloads, training, staff turnover, provider competency).	The actions to achieve compliance listed in Section V.D.3.a-h will also achieve compliance with this provision of the Settlement Agreement.
38	V.D.4	The Commonwealth shall collect and analyze data from available sources, including, the risk management system described in V.C. above, those sources described in Sections V.E-G and I below (e.g., providers, case managers, Quality Service	<p>The DBHDS Office of Data Quality and Visualization has developed a Data Quality Monitoring Plan that will guide the improvement of key data sources and monitor progress over time.</p> <p>The DBHDS Office of Data Quality and Visualization has completed an initial assessment of twelve data sources used by DBHDS. This assessment provides insight into the key attributes of data quality and an overview of each data source</p>

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		Reviews, and licensing), Quality Management Reviews, the crisis system, service and discharge plans from the Training Centers, service plans for individuals receiving waiver services, Regional Support Teams, and CIMs.	<p>by containing a description of the content of the data source and explaining how the data is collected, organized, and stored. The initial assessment also notes any additional concerns raised by data analysts or subject matter experts.</p> <p>2. The implementation of the recommended improvements that result from the data quality process will be monitored by the Office of Data Quality and Visualization on an annual basis.</p>
39	V.D.5	The Commonwealth shall implement Regional Quality Councils that shall be responsible for assessing relevant data, identifying trends, and recommending responsive actions in their respective Regions of the Commonwealth.	The Commonwealth has established Regional Quality Councils (“RQCs”) in each region with the membership required by section V.D.5.a. RQCs are responsible for assessing relevant data, identifying trends, and recommending responsive actions in their respective regions. The RQCs will fully meet those responsibilities when the requirements of Section V.D.5.b of the Agreement are met.
40	V.D.5.b	Each council shall meet on a quarterly basis to share regional data, trends, and monitoring efforts and plan and recommend regional quality improvement initiatives. The work of the Regional Quality Councils shall be directed by a DBHDS quality improvement committee.	<p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. Each RQC meets on a quarterly basis with a quorum of its members participating at each meeting. 2. Quality outcome measures established by DBHDS in consultation with the Quality Improvement Committee are provided to each RQC. From these quality outcome measures, each RQC identifies two topics for quality initiatives to review each year. 3. Data collected in accordance with Section V.D.4 of the Settlement Agreement and relevant to the RQC’s consideration of the two selected topics for quality initiatives will be presented to the RQC as requested by the RQC. 4. Each RQC reviews and assesses the data received to identify trends and recommend quality initiatives to address the identified trends. Each quality improvement initiative will have at least one measurable outcome.

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			<p>5. The recommendations of the RQCs are presented to the DBHDS Quality Improvement Committee.</p> <p>6. The RQCs report annually to the DBHDS Quality Improvement Committee on their region's progress in meeting the measurable outcomes established for each quality initiative.</p>
41	V.D.6	At least annually, the Commonwealth shall report publicly, through new or existing mechanisms, on the availability (including the number of people served in each type of service described in this Agreement) and quality of supports and services in the community and gaps in services, and shall make recommendations for improvement.	<p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <p>The Commonwealth posts reports, updated at least annually, on the DBHDS website or that of VirginiaNavigator on the availability and quality of services in the community and gaps in services and makes recommendations for improvement. Reports will include the following information:</p> <ul style="list-style-type: none"> • Demographics – Individuals served <ul style="list-style-type: none"> ○ Number of individuals by waiver type ○ Number of individuals by service type ○ Number of individuals by region ○ Number of individuals in each training center ○ Number of individuals on the DD waiver waiting list by priority level and geographic region ○ Number of children residing in NFs and ICF/IIDs • Demographics – Service capacity <ul style="list-style-type: none"> ○ Number of licensed DD providers <ul style="list-style-type: none"> ▪ Residential setting by size and type ▪ Day services by type ▪ Other ancillary services ○ Number of ICF/IID non-state operated beds ○ Semi-annual Provider Data Summary ○ RST Annual Report • Assessments – Quality <ul style="list-style-type: none"> ○ Results of licensing findings resulting from inspections and

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			<p>investigations</p> <ul style="list-style-type: none"> ○ Quality Management Annual Report and Evaluation ○ Data Quality Plan ○ Annual Mortality Review Report ○ Case Management Steering Committee Report ○ Report from the Quality Service Reviews ○ National Core Indicators <ul style="list-style-type: none"> ● Other reporting: <ul style="list-style-type: none"> ○ Updates to the Housing Plan ○ Updates to Employment/Integrated Day Activities Plan ○ IFSP outcomes report and updates to IFSP Plan ○ DBHDS Annual Report
42	V.E.1	The Commonwealth shall require all providers (including Training Centers, CSBs, and other community providers) to develop and implement a quality improvement (“QI”) program, including root cause analyses, that is sufficient to identify and address significant issues and is consistent with the requirements of the DBHDS Licensing Regulations at 12 VAC 35-105-620 in effect on the effective date of this Agreement and the provisions of this Agreement.	<p>The Licensing Regulations now require providers and CSBs to develop and implement quality improvement programs, including root cause analysis. <i>See</i> 12 VAC 35-105-620 found at http://register.dls.virginia.gov/details.aspx?id=6997.</p> <p>The DBHDS Office of Licensing monitors compliance with the Licensing Regulations.</p> <p>Although not required by the Settlement Agreement, the Commonwealth has or intends to achieve the following actions:</p> <ol style="list-style-type: none"> 1. DBHDS has made available written guidance for providers on meeting the quality improvement requirements of the Licensing Regulations. This guidance will be revised and updated as necessary. 2. At least 90% of providers cited for violating 12 VAC 35-105-620 have developed a corrective action plan. 3. If 50% or more of DBHDS-licensed providers are cited for not meeting the quality improvement requirements of the Licensing Regulations (12 VAC 35-105-620), DBHDS will initiate a systemic quality improvement effort designed to improve providers’ performance in complying with the Licensing Regulations related to quality improvement.

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43	V.E.2	Within 12 months of the effective date of this Agreement, the Commonwealth shall develop measures that CSBs and other community providers are required to report to DBHDS on a regular basis, either through their risk management/critical incident reporting requirements or through their QI program. Reported key indicators shall capture information regarding both positive and negative outcomes for both health and safety and community integration, and will be selected from the relevant domains listed in Section V.D.3. above. The measures will be monitored and reviewed by the DBHDS quality improvement committee, with input from Regional Quality Councils, described in Section V.D.5 above. The DBHDS quality improvement committee will assess the validity of each measure at least annually and update measures accordingly.	<p>The Commonwealth has increased required reporting through its Licensing Regulations to require reporting of serious incidents, which include:</p> <ul style="list-style-type: none"> a. Serious injuries b. Individuals that are missing c. Emergency room visits d. Unplanned hospitalizations e. Choking incidents requiring intervention f. Ingestion of any hazardous material g. Diagnosis or increase in severity level of decubitus ulcer h. Diagnosis of bowel obstruction i. Diagnosis of aspiration pneumonia <p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. DBHDS uses the data from the required reporting to identify relevant performance measures. 2. Such performance measures are reviewed by the DBHDS Key Performance Area workgroups, the DBHDS Risk Management Review Committee and the DBHDS Quality Improvement Committee to identify opportunities for improvement and implement quality improvement initiatives as determined necessary by DBHDS.
44	V.E.3	The Commonwealth shall use Quality Service Reviews and other mechanisms to assess the adequacy of providers' quality improvement strategies and shall provide technical assistance and other oversight to providers whose quality	<p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. At least 90% of DBHDS-licensed providers that have been cited for not meeting the quality improvement requirements of the Licensing Regulations have documented corrective actions to address deficiencies in quality improvement programs.

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		improvement strategies the Commonwealth determines to be inadequate.	<p>2. If 50% or more of DBHDS-licensed providers are cited for not meeting the quality improvement requirements of the Licensing Regulations (12 VAC 35-105-620), DBHDS will initiate a systemic quality improvement effort designed to improve providers' performance in complying with the Licensing Regulations related to quality improvement.</p> <p>3. DBHDS provides technical assistance to providers whose quality improvement system the Commonwealth determines to be inadequate and to address compliance issues with Licensing Regulations related to quality improvement.</p> <p>4. Information from Quality Service Reviews are used to improve practice and quality of services through the collection of valid and reliable data that informs the provider quality performance and identifies system level quality improvement initiatives.</p>
45	V.F.2	At these face-to-face meetings, the case manager shall: observe the individual and the individual's environment to assess for previously unidentified risks, injuries, needs, or other changes in status; assess the status of previously identified risks, injuries, needs, or other change in status; assess whether the individual's support plan is being implemented appropriately and remains appropriate for the individual; and ascertain whether supports and services are being implemented consistent with the individual's strengths and preferences and in the most integrated setting appropriate to the individual's needs. If any of these observations or assessments identifies an unidentified or	The Commonwealth asserts that the actions specified for Section III.C.5.b.i. should result in the achievement of compliance with this provision of the Settlement Agreement.

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		inadequately addressed risk, injury, need, or change in status; a deficiency in the individual's support plan or its implementation; or a discrepancy between the implementation of supports and services and the individual's strengths and preferences, then the case manager shall report and document the issue, convene the individual's service planning team to address it, and document its resolution.	
46	V.F.4	Within 12 months from the effective date of this Agreement, the Commonwealth shall establish a mechanism to collect reliable data from the case managers on the number, type, and frequency of case manager contacts with the individual.	<p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. DBHDS collects data on the number, type, and frequency of case management contacts. 2. DBHDS reviews a sample of the collected data on the number, type, and frequency of case management contacts to determine reliability. DBHDS provides technical assistance to CSBs with respect to the review and submission of this data as determined necessary by DBHDS. <p>Although not required by this provision of the Settlement Agreement, the data regarding the number, type, and frequency of case management contacts will be included in the Case Management Steering Committee data review. Recommendations of the Case Management Steering Committee to address noncompliance related to case manager contacts will be provided to the DBHDS Quality Improvement Committee for consideration of quality improvement initiatives and to the DBHDS Commissioner for review of CSB Performance Contract issues.</p>
47	V.F.5	Within 24 months from the date of	The Commonwealth asserts that the actions specified for Sections III.C.5.b.i. and

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		this Agreement, key indicators from the case manager's face-to-face visits with the individual, and the case manager's observation and assessments, shall be reported to the Commonwealth for its review and assessment of data. Reported key indicators shall capture information regarding both positive and negative outcomes for both health and safety and community integration and will be selected from the relevant domains listed in V.D.3.	V.D.3 should achieve compliance with this provision of the Settlement Agreement.
48	V.G.3	Within 12 months of the effective date of this Agreement, the Commonwealth shall ensure that the licensure process assesses the adequacy of the individualized supports and services provided to persons receiving services under this Agreement in each of the domains listed in Section V.D.3 above and that these data and assessments are reported to DBHDS.	<p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. The DBHDS Office of Licensing develops a checklist to assess the adequacy of individualized supports and services in each of the domains listed in Section V.D.3 and uses the checklist in its inspections and investigations. 2. The DBHDS Office of Licensing will produce a report from the data obtained from the checklist. This data will be shared with the Case Management Steering Committee and relevant Key Performance Area workgroups who will evaluate this data along with other data sources to determine whether quality improvement initiatives are needed.
49	V.H.1	The Commonwealth shall have a statewide core competency-based training curriculum for all staff who provide services under this Agreement. The training shall include person-centered practices, community integration and self-determination awareness, and	<p>The Commonwealth asserts that it is compliant with this provision of the Settlement Agreement.</p> <ol style="list-style-type: none"> 1. DBHDS has a core competency-based training curriculum that meets the required elements of this provision of the Settlement Agreement, found at https://partnership.vcu.edu/DSP_orientation/index.html. 2. The Commonwealth has established training, testing, and observational

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		required elements of service training.	<p>requirements of core competencies for direct support professionals (“DSPs”) and their supervisors through its DD Waivers that are measurable and at minimum include competencies in:</p> <ul style="list-style-type: none"> • the characteristics of developmental disabilities and Virginia’s DD Waivers; • person-centeredness (and related practices such as dignity of risk and self-determination in alignment with CMS definitions); • positive behavioral supports; • effective communication; • DBHDS-identified health risks and the appropriate interventions (i.e., skin care (pressure sores; skin breakdown), aspiration pneumonia, falls, urinary tract infections, dehydration, constipation and bowel obstruction, sepsis, and seizures); and • best practices in the support of individuals with developmental disabilities (e.g. community integration, building and maintaining positive relationships, being active and productive in society, empowerment, advocacy, rights and choice, safety in the home and community). <p>DBHDS Licensing Regulations also require that providers develop a training policy that addresses the frequency of retraining on serious incident reporting, medication administration, behavior intervention, emergency preparedness, and infection control, to include flu epidemics. These regulations further require that employees or contractors who are responsible for implementing the ISP demonstrate a working knowledge of the objectives and strategies contained in each individual's current ISP and that licensed providers provide training and development opportunities for employees to enable them to support the individuals receiving services and to carry out their job responsibilities.</p> <p>3. The Commonwealth requires through its DD Waivers that DSPs and their supervisors meet training requirements and pass a knowledge-based test with 80% success prior to providing reimbursable services in the absence of another staff person who has passed the test.</p> <p>4. The Commonwealth requires through its DD Waivers that DSPs and their</p>

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			<p>supervisors meet observable competencies including:</p> <ul style="list-style-type: none"> • demonstrating person-centered skills, values, and attributes; • understanding and following service requirements; and • demonstrating abilities that improve or maintain the health and wellness of those they support. <p>5. Providers that are cited for having staff qualification violations are required to submit and complete corrective action plans.</p> <p>6. Consistent with CMS assurances, DBHDS, in conjunction with DMAS Quality Management Review staff, reviews citations (including those related to staff qualifications) and makes results available to providers through quarterly provider roundtables.</p> <p>Despite the Commonwealth's assertion of compliance, if a measure is needed for this provision of the Settlement Agreement, the Commonwealth recommends the following:</p> <p>The Commonwealth will be considered to be in compliance with this provision of the Agreement when no more than 14% of providers reviewed through the DMAS Quality Management Review Process are cited for violating staff qualification requirements within the DMAS DD Waivers.</p>
50	V.H.2	The Commonwealth shall ensure that the statewide training program includes adequate coaching and supervision of staff trainees. Coaches and supervisors must have demonstrated competency in providing the service they are coaching and supervising.	<p>The Commonwealth asserts that it is compliant with this provision of the Settlement Agreement.</p> <p>1. The Commonwealth requires through its DD Waivers that, in addition to receiving training and passing the knowledge-based test, supervisors of DSPs complete training specific to core competency requirements, which is offered by DBHDS, that includes instruction on completing an observational-based process to document that DSPs meet competencies as established by DBHDS. The Commonwealth requires through its DD Waivers that observation of DSP competencies is documented by the supervisor within 180 days of hire. The Commonwealth requires through its DD Waivers that supervisors meet these same competencies, and additional competencies pertinent to their role, which</p>

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			<p>are observed and documented by the agency director or designee.</p> <p>Supervisors must:</p> <ul style="list-style-type: none"> • Complete a training that describes the requirements of a supervisor in meeting orientation and training requirements • Pass a knowledge-based test online with at least 80% success • Sign an assurance that they understand and meet requirements • Receive training in: <ul style="list-style-type: none"> 1. The characteristics of developmental disabilities and Virginia's DD waivers; 2. Person-centeredness, positive behavioral supports, effective communication; 3. DBHDS-identified health risks of developmental disabilities and the appropriate interventions developmental disabilities; and 4. Best practices in the support of individuals with developmental disabilities. • Discuss the above training topics with all DSPs and confirm their understanding • Explain to DSPs how training fits with the organization • Serve as a model for DSPs by demonstrating person-centered skills, values and attitudes • Serve as a model for Direct Support Professionals by demonstrating respectful communication with individuals and others • Work with DSPs, behavioral consultants and others as needed to enhance the provision of positive behavioral supports • Provide guidance to DSPs upon identifying deficiencies in documentation • Answer questions and provide guidance to DSPs on individual Plans for Supports and methods of documenting the supports provided • Communicate the expectations and responsibilities to the DSPs they supervise • Answer questions and provide guidance to DSPs on individual ISPs and

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			<p>methods of documenting the supports provided</p> <ul style="list-style-type: none"> • Provide written guidance to DSPs on identifying individual-specific changes that may indicate the need for an emergency response • Provide guidance to DSPs on identifying individual-specific changes that may indicate the need for an emergency response <p>Despite the Commonwealth's assertion of compliance, if an indicator is needed for this provision of the Settlement Agreement, the Commonwealth recommends the following:</p> <p>The Commonwealth will be considered to be in compliance with this provision of the Agreement when no more than 14% of providers reviewed through the DMAS Quality Management Review Process are cited for violating staff qualification requirements within the DMAS DD Waivers.</p>
51	V.I.1.a-b	<p>The Commonwealth shall use Quality Service Reviews (“QSRs”) to evaluate the quality of services at an individual, provider, and system-wide level and the extent to which services are provided in the most integrated setting appropriate to individuals’ needs and choice. QSRs shall collect information through:</p> <ol style="list-style-type: none"> Face-to-face interviews of the individual, relevant professional staff, and other people involved in the individual’s life; and Assessment, informed by face-to-face interviews, of treatment records, incident/injury data, key-indicator performance data, 	<p>The Commonwealth conducts Quality Service Reviews (“QSRs”) annually on a statistically valid sample of people receiving services. The Commonwealth asserts that it will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. QSRs utilize information collected from, at a minimum, the following sources for individual service-recipient level reviews: <ul style="list-style-type: none"> • Interviews of individual waiver service recipients, family members or guardians (if involved in the individual’s life), case managers, and service providers. • The following records are reviewed: case management, the ISP, the provider’s record, and incident reports. • Direct observation of the individual waiver service recipient occurs at each of their service sites (e.g., Residential and/or Day Programs)

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		compliance with the service requirements of this Agreement, and the contractual compliance of community services boards and/or community providers.	
52	V.I.2	QSRs shall evaluate whether individuals' needs are being identified and met through person-centered planning and thinking (including building on individuals' strengths, preferences, and goals), whether services are being provided in the most integrated setting appropriate to the individuals' needs and consistent with their informed choice, and whether individuals are having opportunities for integration in all aspects of their lives (e.g., living arrangements, work and other day activities, access to community services and activities, and opportunities for relationships with non-paid individuals). Information from the QSRs shall be used to improve practice and the quality of services on the provider, CSB, and system wide levels.	<p>The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:</p> <ol style="list-style-type: none"> 1. The QSRs assess on an individual service-recipient level and individual provider level whether: <ul style="list-style-type: none"> a. Individuals' needs are identified and met, including health and safety. b. Person-centered thinking and planning is applied and people are supported in self-direction, in accordance with their person-centered plan. c. Services are responsive to changes in individual needs (where present) and service plans are modified in response to new or changed service needs. d. Services and supports are provided in the most integrated setting appropriate to individuals' needs and consistent with their informed choice. e. Individuals have opportunities for community engagement and inclusion in all aspects of their lives. f. Any restrictions on individuals' rights are in approved plans and constitute the minimum necessary restrictions to ensure safety of the individual and others. 2. Information from the QSRs are used to improve practice and quality of services through the collection of valid and reliable data that informs the provider quality performance and identifies system level quality improvement initiatives.
53	V.I.3	The Commonwealth shall ensure those conducting QSRs are adequately trained and a reasonable	The Commonwealth will achieve compliance with this provision of the Settlement Agreement when:

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		sample of look-behind QSRs are completed to validate the reliability of the QSR process.	<ol style="list-style-type: none"> 1. QSR tools will include definitions of standards and items being measured; clear definition of methodology for conducting reviews, e.g., questions asked and location of data/records; and specific criteria for compliance with each item. 2. The QSR process will include a measurement of inter-rater reliability to provide valid and reliable data to DBHDS for review and assessment of service quality. Reviewers who do not meet DBHDS-established performance thresholds will be required to complete re-training. Measures that have low inter-rater reliability will be reviewed by DBHDS. DBHDS will modify measures/associated guidelines to address reliability issues. 3. QSR processes indicate inter-rater reliability of reviewers is at least 80%. 4. QSRs of a statistically significant sample of individuals receiving services are conducted annually.
54	IX.C	The Commonwealth shall maintain sufficient records to document that the requirements of this Agreement are being properly implemented and shall make such records available to the Independent Reviewer for inspection and copying upon request and on a reasonable basis.	<p>In order to maintain sufficient records to document its compliance with the Settlement Agreement, the Commonwealth will maintain a written index that identifies the records sufficient to document that the requirements of the Settlement Agreement are being implemented and the entities responsible for monitoring and ensuring that the records are made available (“Record Index”).</p> <p>The Record Index will specify the following components for each record source:</p> <ul style="list-style-type: none"> • Identification and documentation of record locations; • Timeframe for collecting and updating records as specified in the Settlement Agreement or as determined by DBHDS; • Identification of a custodian of the records who is responsible for oversight of the collection, storage, and updates; and • A process to monitor/audit record completion. <p>Records will be maintained in accordance with applicable Library of Virginia Records Retention and Disposition Schedules or longer, as necessary to demonstrate compliance with the Settlement Agreement.</p>